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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA, ) 4:15-CR-6049-EFS-20  
9 Plaintiff, )  
10 ) United States' Response to  
11 v. ) Defendant's Motion to Reopen  
12 MARCIAL BRAVO-ZAMBRANO, ) Detention (ECF No. 830)  
13 )  
14 Defendant. )

15 Plaintiff, United States of America, by and through Joseph H. Harrington, United  
16 States Attorney for the Eastern District of Washington, and Stephanie Van Marter and  
17 Caitlin A. Baunsgard, Assistant United States Attorneys for the Eastern District of  
18 Washington, submits this response to Defendant's Motion to Reopen Detention (ECF No.  
19 830).

20 The Defendant is asking the Court to release him from custody submitting that he  
21 has the ability to obtain employment and can reside at an undisclosed residence with  
22 family in Benton City<sup>1</sup>. He therefore argues he is no longer a flight risk or danger to the  
23 community. Respectfully, this exact same argument was raised at the time of the  
24 Defendant's original hearing. Although it is unclear and not specified in his motion in  
25 regard to the proposed residence release plan, he previously made the same request to  
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28 <sup>1</sup>The United States has asked for the proposed release address and as of the filing of this  
response it has not yet been provided.

1 stay with family in Benton City. Thus, the United States is unclear as to what the change  
2 or newly discovered evidence is before this Court.

3 This Court previously found that the Defendant had in fact rebutted the  
4 presumption of evidence with some evidence that he is not a flight risk or danger to the  
5 community. ECF 808. However, based upon the application of the Bail Reform Acts  
6 factors, determined the Government had met its burden by the required preponderance of  
7 the evidence an absence of conditions or combination of conditions that would  
8 reasonably assure this Defendant's presence at trial and has established by clear and  
9 convincing evidence that Defendant poses a present risk to the safety of other persons or  
10 the community. *Id.*

11 The Defendant now claims he is not a risk of flight because his family lives in  
12 Benton City. Again, this information was previously argued before this court,

13 Defendant evidently has substantial ties to the community. Nearly his entire family  
14 resides legally in this District, and he has acquired the legal right to remain in this  
15 country. Given assertions that he "has been threatened" in Mexico, it is arguably  
16 reasonable that Defendant's apprehension while entering the United States from  
17 Mexico with his wife, could be regarded as evidence that he would move his life  
18 into the United States, rather than intentionally flee to avoid prosecution.

19 Evidence also suggests that Defendant was absent for two years while his brother  
20 was in custody as a co-defendant in this case. It is equally rational to infer that  
21 Defendant was aware of the charges and possible punishment he faced and that  
22 he remained out of the jurisdiction and away from his family to avoid  
23 apprehension.

24 *Id.* at 2-3.

25 As is also noted in the Pre-Trial Services Report (PTSR), prior to the Defendant  
26 fleeing to Mexico for several years, he had frequent cross border travel between Mexico,  
27 the United States and Canada, all during the time period of the alleged conspiracy in this  
28 case. As the Court referenced in its Order, on August 25, 2015, the Defendant was  
arrested in Canada along with Co-Defendants Juan Zambrano (his brother) and Miguel  
Reyes Garcia after backpacking 18 kilograms of methamphetamine, 4 kilograms of

1 cocaine, and 171 grams of heroin. See, ECF 808 at 2-3. The RCMP also located \$50,000  
2 in UC currency, two loaded firearms, ammunition, several backpacks, walkie talkies,  
3 jackets and one cellular phone amongst the items with the Defendants. This Defendant  
4 was deported out of Canada back to the United States where it appears he continued cross  
5 border travel. Thus, the Defendant erroneously argues there was no evidence of firearm  
6 possession during the offense.

7 The Defendant and his brother were originally indicted December 5, 2016<sup>2</sup>. On  
8 December 15<sup>th</sup> 2016, members of the FBI Eastern Washington Violent Gangs Safe  
9 Streets Task Force (EWVGSSTF) made contact at 10903 W. 464 PR NW Benton City,  
10 Washington a last known address for the Defendant. It was an address also associated  
11 with his parents. Members of the Task Force were directed to a trailer located nearby and  
12 made contact with Co-Defendant Juan Zambrano who was found to have begun a  
13 marijuana grow inside the residence and was in possession of smaller quantities of  
14 methamphetamine, additional walkie talkies and more firearms. Co-Defendant Juan  
15 Zambrano is also detained pending trial. Interestingly, the Defendant claims to have left  
16 to Mexico November 2017. *See*, ECF 806 at 3.

17 The Defendant also erroneously argues “Mr. Zambrano is not a flight risk and has  
18 appeared at every hearing in his case up to this point and will continue to do so.” ECF  
19 830 at 1. The Defendant left this jurisdiction reportedly after his brother was arrested and  
20 remained in Mexico to evade prosecution. Upon his attempt to return to the United States,  
21 he was arrested and has remained in custody since that time.

22 The Defendant further claims “He has worked in the United States and paid his  
23 taxes. See sealed exhibit 1. That illustrates that he would not flee the district especially  
24 with the prospect of a job lined up upon release (with Olsen Bros.), especially  
25 considering where he lives. See Sealed exhibits 2 and 3.” However, upon review of these  
26 exhibits, the United States is perplexed as to how two photographs affirm the Defendant’s  
27 proffer and argument. This is the same employment previously argued which was

28 <sup>2</sup> The first indictment in this cause number was actually filed December 2015.

1 problematic. The PTSR reported that the information provided by the Defendant was not  
2 accurate and that Olsen Bro's farm showed sporadic employment at best with the last  
3 known employment in 2016, not the past 2 to 3 years as claimed by the Defendant. *Id.*

4 The United States respectfully submits there is no new information with which to  
5 disturb this Court's previous Order of Detention.

6 DATED August 6, 2018.

7 Joseph H. Harrington  
United States Attorney

8 *s/Stephanie Van Marter*  
9 Stephanie Van Marter  
10 Assistant United States Attorney

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2 **CERTIFICATION**  
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5 I hereby certify that on August 6, 2018, I electronically filed the foregoing with the  
6 Clerk of the Court and counsel of record using the CM/ECF System.  
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10 *s/Stephanie Van Marter* \_\_\_\_\_  
11 Stephanie Van Marter  
12 Assistant United States Attorney  
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